

(10) days preceding the date of the meeting of the "Menominee (Minutes) News", the local newspaper and by placing copies of such notice on the bulletin boards at the Mesena Agency, the office of the Menominee Indian Mills, the Post Offices at Keshen and Neopit, at the punch clocks at the sawmills, planning mill, and the yard, at the South Branch Range Station, the bulletin boards of the community centers at Zoar and West Branch and such other places as may be determined upon by the General Council from time to time. (Source of this section is paragraph 5 of the Regulations adopted December 13, 1941.)

SEC. 28. NOTICE OF BUSINESS TO BE TRANSACTED. Notices of General Council meetings, in addition to containing the date, the time and the place of the meeting, shall list in numerical order the business to come before the meeting and no business not so listed shall be transacted before the meeting of the Council. (Source of this section is paragraph 5 of the Regulations adopted December 13, 1941.)

SEC. 29. PREPARATION OF NOTICES. The notices of all meetings of the General Council shall be prepared by the Superintendent of the Reservation. (Source of this section is paragraph of the Regulations adopted December 13, 1941.)

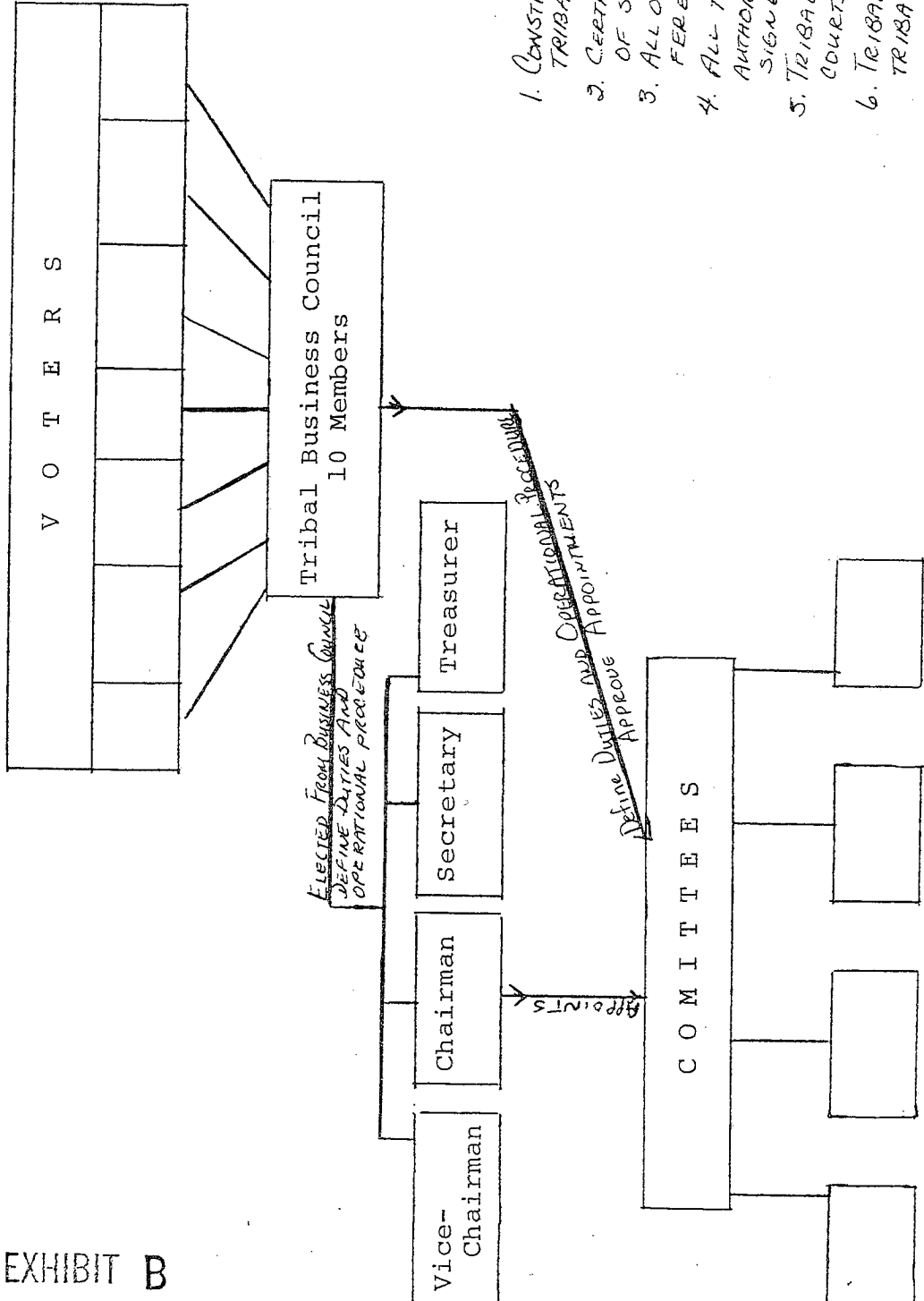
SEC. 30. ITEMS TO BE INCLUDED IN NOTICES, BY WHOM SUBMITTED. Notices of meetings of General Council shall include all items requested by (1) the Advisory Council, (2) (Manager of the Menominee Indians Mills), the Superintendent of the Menominee Reservation, (3) any petition duly signed by two hundred and fifty (250) qualified voters of the Menominee Tribe, and (4) may include such other items as the Superintendent desires to present to the Tribe. Such requests shall be in writing and shall clearly state the nature of the business. They shall be dated and signed by the parties presenting the same and shall be presented to the Superintendent of the Menominee Reservation at least twenty-four (24) hours in advance of the publication of the notice of the particular general or special meeting of the General Council. (Source of this section is paragraph 6 of the Regulations adopted December 13, 1941.)

SEC. 31. RECOMMENDATIONS TO COMMISSIONER. The General Council may recommend to the Commissioner of Indian Affairs any changes in the regulations of this Code that may at any time in its judgment seem advisable. (Source of this section is paragraph 10 of the Constitution and By-laws.)

SEC. 32. CONSTRUCTION, REORGANIZATION ACT. The provisions of SECS. 1 to 31 of this Code shall not be construed as the adoption of any charter or constitution and by-laws under the Indian Reorganization Act. (Source of this section is paragraph 7 of Regulations adopted December 13, 1941.)

FORT BERTHOLD RESERVATION FORM OF GOVERNMENT - (Like Weak Mayor - Council Form)

EXHIBIT B



COMMENT

1. CONSTITUTION ENUMERATES POWERS OF TRIBAL COUNCIL.
2. CERTAIN POWERS ARE SUBJECT TO APPROVAL OF SECRETARY
3. ALL OTHER POWERS ARE SUBJECT TO REFERENCE.
4. ALL TRIBAL EXPENDITURES MUST BE AUTHORIZED BY TRIBAL COUNCIL AND SIGNED BY BOTH SECRETARY AND CHAIRMAN.
5. TRIBAL COUNCIL EMPOWERED TO ESTABLISH COURTS BY ORDINANCE. (ART. 6, §3(b).)
6. TRIBAL COUNCIL EMPOWERED TO PASS TRIBAL LAWS.
7. ALL POWERS NOT ENUMERATED RESERVED TO PEOPLE AND MAY BE EXERCISED BY COUNCIL PURSUANT TO APPROPRIATE CONSTITUTIONAL AMENDMENT (ART. III, §7).

CONSTITUTION AND BYLAWS OF THE THREE  
AFFILIATED TRIBES OF THE FORT BERTHOLD  
RESERVATION

PREAMBLE

We, the Arickara, Gros Ventres, and Mandan Indians of the Fort Berthold Reservation, in North Dakota, eagerly embrace the opportunities for self-rule, and in order to enjoy the blessings of liberty and justice; to intelligently protect our vested rights under existing treaties and the constitution of the United States; to guarantee to our posterity a more hopeful future; to preserve and develop our real estate and resources; to promote educational efficiency for the enhancement of good citizenship; to promote the general welfare of the three tribes; to make possible a more hopeful, self-sustaining, and honorable living, socially and economically, do, with deep consciousness of God, as our sovereign, ordain and establish this constitution for the Three Affiliated Tribes of this reservation.

ARTICLE I--TERRITORY

The jurisdiction of the Three Affiliated Tribes of the Fort Berthold Reservation shall extend to Indian Trust and Tribal lands within the confines of the Fort Berthold Reservation, as defined in the treaty of September 17, 1851; to lieu lands outside of such boundaries; and to such other lands, within or without such boundaries, as have been or may be hereafter added thereto under any law of the United States, except as otherwise provided by law.

ARTICLE II--MEMBERSHIP

SECTION 1. The membership of the Three Affiliated Tribes of the Fort Berthold Reservation shall consist of all persons of Indian blood whose names appear on the official census roll of the three tribes as of April 1, 1935; and all children born to any member of the tribes who is a resident of the reservation at the time of the birth of said children.

SEC. 2. The Tribal Business Council shall have power to promulgate ordinances, subject to review by the Secretary of the Interior, governing future membership, the adoption of new members and the revision of the membership rolls from time to time as determined by such ordinances.

ARTICLE III--GOVERNING BODY

SECTION 1. The governing body of the Three Affiliated Tribes of the Fort Berthold Reservation shall be known as the Tribal Business Council.

SEC. 2. The Tribal Business Council shall consist of 10 members elected from segments of the Reservation as follows:

Western Segment	3 Representatives
Northern Segment	1 Representative
Northeastern Segment	1 Representative
Eastern Segment	3 Representatives
Southern Segment	2 Representatives

SEC. 3. The boundaries of the segments shall be described as follows:

Western - That part of the reservation bounded on the East by the Garrison Reservoir and on the South by the Little Missouri River arm of the Garrison Reservoir.

Northern - That part of the reservation bounded on the West and South by the Garrison Reservoir and on the East by the Shell Creek arm of the Garrison Reservoir.

Northeastern - That part of the reservation bounded on the West by the Shell Creek arm of the Garrison Reservoir and on the South by the Lucky Mound Creek arm of the Garrison Reservoir.

Eastern - That part of the reservation bounded on the South and West by the Garrison Reservoir and on the West and North by the Lucky Mound Creek arm of the Garrison Reservoir.

Southern - That part of the reservation bounded on the North by the Garrison Reservoir and on the North and West by the Little Missouri River arm of the Garrison Reservoir.

SEC. 4. The Tribal Business Council shall have the authority to change the segment boundaries, subject to the approval of the voters of the reservation at any regular or special election.

SEC. 5. Within 3 days after the election for councilmen has been held, the newly elected Tribal Business Council shall meet and organize by electing a chairman, a vice chairman, a secretary, and a treasurer from its own members; and from within or outside its own members, it may elect or appoint a sergeant at arms and such other officers and committees as it may find necessary.

SEC. 6. The members of the Tribal Business Council shall hold office until the next regular election and until their successors are elected or appointed and qualified.

Changed by Res. 70-89  
attached

## ARTICLE IV--NOMINATIONS AND ELECTIONS

SECTION 1. All elections shall be by secret ballot.

SEC. 2(a). Any member of the Three Affiliated Tribes of the Fort Berthold Reservation, who is 21 years of age or over, shall be entitled to vote at any election.

SEC. 2(b). Absentee ballots will be furnished to any enrolled non-resident member of the tribes upon request to the tribal secretary made 10 days before the election. The ballot must be returned to and reach the tribal secretary on or before the date of the election in order that it may be counted.

SEC. 3(a). Not less than 20 days nor more than 30 days after the date on which this amendment becomes effective an election shall be held. At said election representatives to the Tribal Business Council from the segments as described herein shall be elected to serve until September 1953. Thereafter, the regular election of a Tribal Business Council shall be held on the first Tuesday of September in even numbered years.

SEC. 3(b). Notice of regular elections shall be given by the secretary of the Tribal Business Council who shall give to all enrolled members of the tribe 30 days notice of the time and place of the regular election. In the event the tribal secretary shall fail to give the appropriate notice, or in case a regular election has not been held, the Secretary of the Interior, upon the receipt of a petition signed by at least 30 percent of the adult members of the tribe, shall call such election and give 25 days notice, setting the time and place.

SEC. 4. Special elections may be called by a two-thirds vote of the Tribal Business Council in favor of such special election, or by a petition signed by at least 10 percent of the qualified voters of each community as provided in Article VIII.

SEC. 5. All elections shall be held under the supervision of the Tribal Business Council or an election board appointed by that Council, and the Tribal Business Council or the election board appointed by it, shall make rules and regulations governing all elections, and shall designate the polling places and the election officers.

SEC. 6. In the first election after the adoption of this amendment any qualified voter of the Three Affiliated Tribes of the Fort Berthold Reservation who is a bona fide resident of one of the segments described herein may become a candidate to represent said segment on the Tribal Business Council by filing a notice of his candidacy with the Secretary of the Tribal Business Council at least 15 days before the election in which he is to be a candidate. In all succeeding elections a qualified voter to be

eligible to <sup>be</sup> a candidate must have resided in the segment he proposes to represent for a period of at least six months next preceding the date of the election. At least 10 days before the election, the Secretary of the Tribal Business Council shall post the names of all candidates in each voting community. In the event that any community has no qualified candidate, as provided herein, such community may nominate one or more candidates by petition, signed by at least 10 qualified voters of such community.

#### ARTICLE V--VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a council member shall die, resign, permanently remove from the reservation, or be removed for cause, the Council shall declare such position vacant and shall elect to fill the unexpired term from a list of names recommended by a petition signed by a majority of the voters of the community in which the vacancy occurs, and provided that the person elected or appointed by the Tribal Business Council to fill the unexpired term shall be a resident of the community in which the vacancy occurred, and otherwise eligible for the office.

SEC. 2. The Tribal Business Council may expel a member for cause by seven or more members voting for such expulsion, but before any vote is taken on the matter, such member shall be given an opportunity to answer any and all charges at a designated meeting of the Council, and the decision of the Tribal Business Council shall be final as to the expulsion or retention of such member.

#### ARTICLE VI--POWERS

SECTION 1. The Three Affiliated Tribes of the Fort Berthold Reservation, acting through their Tribal Business Council shall have the powers enumerated in this Article, but any power exercised through that council shall be subject to a popular referendum as provided in this Constitution.

SEC. 2. The exercise of the powers enumerated in this Constitution is subject to any limitations imposed by the Statutes of the United States or the Constitution of the United States, and to all express restrictions upon such powers contained in this Constitution and Bylaws.

SEC. 3. The powers enumerated in this Section 3 shall be subject to the approval of the Secretary of the Interior, and may be exercised through the Tribal Business Council which shall have the power, subject to popular referendum as provided in Article VIII of this Constitution:

(a) To present and prosecute any claims or demands of the Three Affiliated Tribes, and to assist members of the Three Affiliated Tribes in presenting their claims or grievances before any court

or agency of government, and to employ attorneys of record or representatives for such services, and to determine their fees.

(b) To promulgate ordinances governing law enforcement on the reservation, and to set up courts for the trial and punishment of offenders against such ordinances in cases which do not come within the jurisdiction of the Federal courts exclusively.

(c) To promulgate ordinances and to adopt rules and regulations and codes for the regulation of the domestic relations of members, and governing marriage, divorce, legitimacy, adoption, the care of dependents, the punishment of offenses against the marriage relationship, and the issuance of licenses and decrees of divorce; all of the matters enumerated in this section to be administered by the Tribal Business Council through a reservation or tribal court, except such of these matters as the Tribal Business Council may by ordinance or resolution leave to state laws and courts.

(d) To remove or exclude from the limits of the reservation, non-members of the tribe, excepting authorized government officials and other persons now occupying reservation lands under lawful authority, and to prescribe appropriate rules and regulations governing such removal and exclusion, and governing the conditions under which non-members of the tribe may come upon tribal lands or have dealings with the tribal members; and to levy taxes or license fees on non-members doing business within the reservation, such acts to be consistent with Federal laws governing trade with Indian Tribes.

SEC. 4. Any resolution or ordinance which, by the terms of this Constitution, is subject to review by the Secretary of the Interior shall be presented to the Superintendent of the Fort Berthold Reservation, who shall, within 10 days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Tribal Business Council of his veto.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him within 10 days after its enactment, he shall advise the Tribal Business Council of his reasons therefor. If those reasons appear to the Council insufficient, it may by a majority vote, refer the resolution or ordinance to the Secretary of the Interior, who may, within 90 days of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

SEC. 5. The Tribal Business Council shall have the following powers, the exercise of which shall be subject to popular referendum as hereinafter provided in this Constitution.

(a) To manage all economic affairs and enterprises of the Three Affiliated Tribes of the Fort Berthold Reservation in accordance with the terms of a charter to be issued to them by the Secretary of the Interior.

(b) To create and maintain a Tribal Business Council Fund by accepting grants or donations from any person, State, or the United States; or by income from tribal enterprises, or by levying assessments of not less than 10 cents nor more than 50 cents per capita on the taxable property of the Three Affiliated Tribes, as required by the performance of such tax to be levied, provided the payment of such per capita levy shall be made before any person shall vote in any election held more than 6 months after the date of said levy.

(c) To administer any funds or property within the exclusive control of the tribe; to make expenditures from available tribal funds for public purposes of the tribe, including salaries or other remuneration of tribal officials or employees. Such salaries or remuneration shall be paid only for services actually rendered. All expenditures from the Tribal Business Council Fund shall be by resolution duly passed by the Council to such effect; and the amounts so paid shall be matters of public record at all times.

(d) To negotiate with the Federal, State and local governments on behalf of the tribe, and to advise and consult with the representatives of the Interior Department on all activities of that department that may affect the Fort Berthold Reservation.

(f) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Three Affiliated Tribes prior to the submission of such estimates or projects to the Bureau of the Budget and to Congress.

(g) To purchase land of members of the organization under condemnation proceedings in courts of competent jurisdiction.

(h) To regulate the inheritance of real and personal property, other than allotted lands, within the territory of their jurisdiction.

(i) To make assignments and leases of tribal lands, and otherwise to manage tribal lands, interests in tribal lands, and property upon such lands, in conformity with Article IX of this Constitution.

(j) To protect and preserve the property, wildlife, and natural resources of the tribes; to regulate hunting and fishing on tribal



lands; and to cultivate and preserve native arts, crafts, culture, ceremonials, and traditions.

(k) To make recommendations to the Superintendent of the Fort Berthold Agency, the Commissioner of Indian Affairs, or the Secretary of the Interior, concerning the appointment and removal of employees assigned to duty on the Fort Berthold Reservation.

(l) To adopt resolutions regulating the procedure of the Tribal Business Council and other tribal agencies and tribal officials of the reservation.

SEC. 6. Likewise subject to popular referendum, the Tribal Business Council may exercise such further powers as may in the future be delegated to the Three Affiliated Tribes of the Fort Berthold Reservation by the Secretary of the Interior or by any other duly authorized official or agency of government.

SEC. 7. Any rights and powers heretofore vested in the three tribes of the Fort Berthold Reservation, but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the people of the Fort Berthold Reservation through the adoption of appropriate bylaws and constitutional amendments.

#### ARTICLE VIII--REFERENDUM

Upon a petition signed by at least 10 percent of the qualified voters of each community, demanding a referendum on any proposed or enacted ordinance or resolution of the Tribal Business Council, the council shall call an election and the vote of a majority of the qualified voters voting in such referendum shall be binding upon the Tribal Business Council, provided that at least 30 percent of the eligible voters shall vote in such referendum.

#### ARTICLE IX--LAND

SECTION 1. The Tribal Business Council shall have authority to manage and lease or otherwise deal with tribal lands and resources in accordance with law and to prevent the sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets.

SEC. 2. Tribal lands. The unallotted lands of the Fort Berthold Indian Reservation and all lands which may hereafter be acquired by the Three Affiliated Tribes or by the United States in trust for the Three Affiliated Tribes, shall be held as tribal lands and no part of such land shall be mortgaged, sold, or ceded, except as permitted by law and then only with the consent and approval of the

Secretary of the Interior. Tribal land shall not be allotted to individual Indians but may be assigned to members of the Three Affiliated Tribes, or leased, or otherwise used by the tribe as hereinafter provided.

SEC. 3. Leasing of Tribal land - (a) Tribal land may be leased by the Tribal Business Council, with the approval of the Secretary of the Interior, for such periods as permitted by law. (b) Grazing permits covering tribal lands may be issued by the Tribal Business Council, with the approval of the Secretary of the Interior, for such periods of time as permitted by law.

SEC. 4. Assignments of Tribal Land - (a) The Tribal Business Council may by ordinance, approved by the Secretary of the Interior, provide for granting and tenure of assignments of tribal land to members of the tribe. (b) Any member of the tribe who owns an allotment or any share of heirship land or patent-in-fee land may voluntarily transfer his interest in such land to the tribe in exchange for an assignment to the same land or for other land or a proportionate share in other tribal assets.

SEC. 5. Use of Unassigned Tribal Land - Tribal land which is not leased or assigned, including tribal timber lands, shall be managed by the Tribal Business Council subject to the approval of the Secretary of the Interior, for the benefit of the members of the tribe.

SEC. 6. Acquisition of Land by Tribe - The Tribal Business Council of the Three Affiliated Tribes is hereby authorized and empowered to acquire by purchase, exchange of tribal land, relinquishment, or otherwise any lands or interests in land for and on behalf of the Three Affiliated Tribes under such terms as may be agreed upon provided the acquisition is approved by the Secretary of the Interior.

#### ARTICLE X--AMENDMENTS

This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment when requested by a two-thirds (2/3) vote of the Tribal Council, or upon presentation of a petition signed by one-third (1/3) of the qualified voters.

BYLAWS OF THE THREE AFFILIATED TRIBES OF THE FORT  
BERTHOLD RESERVATION

ARTICLE I--DUTIES OF OFFICERS

SECTION 1. The Chairman of the Tribal Business Council shall preside at all meetings of the council and direct the work of its officers. He shall appoint, subject to the approval of the council, such standing committees and special committees and other officers as the business of the tribe may require.

In the absence of the chairman from any regular council meeting or any special meeting regularly called, the vice chairman shall preside in his place, and he shall have all the privileges, duties, and responsibilities of the chairman in his absence.

SEC. 2. The Secretary of the Tribal Business Council shall conduct all correspondence of the council, shall keep all records, minutes of meetings, and an accurate roll of members by communities. He shall receive all petitions, applications and other papers and prepare them for the action of the council. He shall promptly submit a copy of the minutes of each council meeting to the Superintendent of the agency. He shall perform such other clerical duties relating to the business of the council as it may direct.

SEC. 3. The Treasurer of the Tribal Business Council shall accept, receipt for, keep, and safeguard all funds in the custody of the council, whether they be tribal funds or special funds for which the council is acting as trustee or custodian. He shall deposit all such funds in a bank or elsewhere as directed by the council and shall make and keep a faithful record of such funds, and shall report on all receipts and expenditures and the amount and nature of all funds in his possession or custody to the council at regular meetings and at such other times as requested by the council, his reports to be in writing and matters of record.

He shall not expend or otherwise disburse any funds in his possession or in the possession or custody of the Tribal Business Council except when he is authorized to do so by resolution duly passed by the council. All checks shall be signed by the Treasurer and shall be countersigned by the Chairman of the Tribal Business Council, and all checks issued prior to July 1, 1940, shall be approved by the Superintendent of the reservation.

The books and records of the Treasurer shall be audited at least once each year by a competent auditor employed by the council, and at such other times as the council or the Commissioner of Indian Affairs may direct. The Treasurer shall be required to be under a surety bond satisfactory to the council and to the Commissioner of Indian Affairs.

SEC. 4. The Tribal Business Council, or an election board appointed by it, shall certify to the election of the duly elected council members within 3 days after the election, and the newly elected councilmen who have been certified shall be installed at the first meeting of the Tribal Business Council thereafter, upon subscribing to the oath of office as follows: "I do solemnly swear that I will support and defend the Constitution of the United States and the Constitution and Bylaws of the Three Affiliated Tribes of the Fort Berthold Reservation, and will faithfully and impartially discharge the duties of councilman to the best of my ability."

SEC. 5. The duties of all appointed committees and officers shall be clearly defined by resolution of the council at the time of their appointment, and such committees and officers shall report from time to time as required by the council, and their activities and decisions shall be subject to review by the council at any time.

## ARTICLE II--SALARIES

The Tribal Business Council may prescribe such salaries for council members and tribal officers appointed by the council as it deems advisable, from such funds as may be available, provided that no compensation shall be paid to any tribal officer out of any tribal funds except by resolution duly passed and approved by the council, and subject to popular referendum the same as other powers of the council, and further provided that no compensation shall be paid to any tribal officer out of tribal funds under the control of the Federal Government except upon a resolution stating the amount of the compensation and the nature of the services rendered, and said resolution shall be of no effect until approved by the Secretary of the Interior.

## ARTICLE III--MEETING OF COUNCIL

SECTION 1. The regular meetings of the Tribal Business Council shall be held at Elbowoods, N. Dak., on the second Thursday of each month.

SEC. 2. Special meetings may be called by the Chairman or by any three councilmen who shall notify all members of the council at least twenty-four (24) hours before the time of convening such meeting unless a majority of the council approve a shorter call in an emergency.

SEC. 3. Seven members shall constitute a legal quorum of the Tribal Business Council.

SEC. 4. In the absence of the Chairman and Vice Chairman if a quorum is otherwise present, the Secretary shall act as chairman until a temporary chairman is selected.

§30, S. At the first meeting of a newly elected Tribal Business Council, it shall establish by resolution a regular order of business such as: Roll call, reading of minutes of previous meeting, report of Treasurer, report of committees, unfinished business, new business, etc.

#### ARTICLE IV--ADOPTION OF CONSTITUTION AND BYLAWS

This Constitution and attached Bylaws, when adopted by a majority of the qualified voters of the Arickara, Gros Ventres, and Mandan Tribes of the Fort Berthold Reservation, voting at a special election called by the Secretary of the Interior, in which at least 30 percent of those qualified shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in effect from the date of his approval.

#### CERTIFICATION OF ADOPTION

Pursuant to an order, approved March 11, 1936, by the Secretary of the Interior, the attached Constitution and Bylaws was submitted for ratification to the members of the Arickara, Gros Ventres, and Mandan Tribes of the Fort Berthold Reservation and was on May 15, 1936, duly ratified by a vote of 366 for, and 220 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935 (49 Stat. 378).

GEORGE W. GRINNELL,  
Chairman of Election Board.  
AUTHUR MANDAN,  
Chairman of Business Council.  
PETER H. BEAUCHAMP,  
Secretary.

W. R. Beyer, Superintendent.

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and Bylaws of the Three Affiliated Tribes of the Fort Berthold Reservation.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and Bylaws are hereby declared inapplicable to the members of the Three Affiliated Tribes.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and Bylaws.

Approval recommended June 3, 1936.

John Collier,  
Commissioner of Indian Affairs.

HAROLD L. ICKES,  
Secretary of the Interior.  
[SEAL]

Washington, D. C., June 29, 1936.

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## PREAMBLE

### A. Considerations.

The purpose of a preamble is to state, at the very beginning of the Constitution, those basic and fundamental purposes for which the Menominee Tribe is establishing the government as set forth in the Articles and Bylaws of the Constitution. Please feel free to add or to modify the following suggested preamble statement as you see fit.

### B. Suggested Provision.

We, the members of the Menominee Indian Tribe of Wisconsin, being a sovereign native people, in order to organize for the common good, to govern ourselves under our own laws and customs, to maintain and foster our tribal culture, to protect our homeland and to conserve and develop its natural resources, do establish and adopt the following Articles of Constitution for the government, protection, and common welfare of the Menominee Tribe of Wisconsin and the members thereof.

### C. Examples.

1. WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the General Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America. [Constitution of the United States.]

2. We, the members of the Nez Perce Tribe of Idaho, in order to exercise our tribal rights and promote our common welfare, do hereby establish this Constitution and Bylaws. [Revised Constitution of the United States, Approved June 27, 1961.]

3. We, the members of the Red Cliff Band of Lake Superior Chippewa Indians in the State of Wisconsin, in order to reestablish our tribal organization; to conserve our tribal property; to develop our common resources; to promote the welfare of ourselves and our descendants; to form business and other organizations; to enjoy certain rights of home rule; and to provide for our people education in vocational and trade schools and institutions of higher learning do ordain and establish this constitution and by-laws. [Constitution of Red Cliff Band of Lake Superior Chippewa Indians, Wisconsin, Approved June 1, 1936.]

4. We, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the State of Wisconsin in order to organize as a tribe for the common welfare of ourselves and our posterity and to insure domestic tranquility; to conserve and develop our natural



resources; to form business and other organizations; to enjoy certain rights of home rule; to provide for our people education in vocational and trade schools and institutions of higher learning; do ordain and establish this Constitution according to the Act of Congress, dated June 18, 1934 (48 Stat. L. 984). [Constitution of the Bad River Band of the Laker Superior Tribe of Chippewa Indians of the State of Wisconsin, Approved June 20, 1936.]

5. We, the Minnesota Mdewakanton Sioux residing on the Prairie Island Reservation under the Pipestone jurisdiction in the State of Minnesota, in order to form a more perfect union, develop our natural resources, insure our domestic tranquility, promote the general welfare, to enjoy certain rights of home rule, to provide education in schools of higher learning including vocational, trade, high schools, and colleges for our people, and to secure the opportunities offered us under the Indian Reorganization Act, do hereby establish the following Constitution and Bylaws; and we solemnly affirm that it is our earnest intention faithfully to support, respect, and promote the integrity of the Constitution of the United States and the Constitution of the State of Minnesota, together with all laws pertaining thereto which are the constituted authority of our commonwealth. [Constitution of the Prairie Island Indian Community in Minnesota, Approved June 20, 1936.]

6. We, the L'Anse, Lac Vieux Desert and Ontonagon Bands of Chippewa Indians, residing within the original confine of the L'Anse Reservation, in order to organize as a tribe for the common welfare of ourselves and our posterity, to insure domestic tranquility, to conserve and develop our natural resources; to form business and other organizations, to establish a credit system, to enjoy certain rights of home rule, do ordain and establish this Constitution and By-laws, for our Community which shall be known as the Keeweenaw Bay Indian Community. [Constitution of the Keeweenaw Bay Indian Community, Michigan, Approved December 17, 1936.]

7. We, the Minnesota Chippewa Tribe, consisting of the Chippewa Indians of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Portage Reservations and the Nonremoval Mille Lac Band of Chippewa Indians, in order to form a representative Chippewa tribal organization, maintain and establish justice for our Tribe, and to conserve and develop our tribal resources and common property; to promote the general welfare of ourselves and descendants, do establish and adopt this Constitution for the Chippewa Indians of Minnesota in accordance with such privilege granted the Indians by the United States under existing law. [Revised Constitution of the Minnesota Chippewa Tribe, Approved March 3, 1964.]

SEC. 6. All sessions of the tribal council (except executive) shall be open to all members of the tribe. Balloting at all sessions shall be either by acclamation or by secret written ballot, as the presiding officer shall direct.

SEC. 7. The council may, upon motion duly passed, go into executive sessions. At such sessions all persons shall be excluded from the council chamber, and any such person whose presence shall be required before the council shall be designated by the chairman, and no other persons shall be allowed to be present other than the members of the council and the secretary.

SEC. 8. The order of business at any regular or special meeting of the tribal council shall be as follows:

- (a) Council called to order for session.
- (b) Roll call.
- (c) Prayer by an authorized person.
- (d) Opening address by the presiding officer or by others.
- (e) Reading and acceptance of minutes of previous meetings.
- (f) Reports of standing committee.
- (g) Report of council treasurer.
- (h) Report of the special committees.
- (i) Reports of the board of directors or advisors.
- (j) Report of the board of directors or advisors.
- (k) Impeachment trials.
- (l) Installation of new officers.
- (m) Unfinished business.
- (n) New business.
- (o) Appointment of committees and directors.
- (p) Adjournment.

SEC. 9. It shall be the duty of the council to exercise care and caution to the end that a complete record is preserved of all acts of the council and of all committees appointed therefrom. Accurate copies of all such records shall be preserved in the files of the council and accurate copies of all necessary records shall be transmitted to such bureaus, departments, or elsewhere as may be required.

SEC. 10. All records of the council and its committees or delegates shall at all times be a matter of public record, and any member of the Cheyenne River Sioux Tribe or his authorized representative, or any properly authorized officer or employee of any Government department shall have full access to same during business hours. However, it is provided that matters before the council while in executive session shall be, at the option of the council, withheld from the public or from individuals or their representatives, until after same shall have acted upon or otherwise quietly disposed of.

SEC. 11. Copies of all leases, contracts, deeds, or assignments and all other papers or documents pertaining to lands of any nature on the reservation shall be carefully preserved by the council, and insofar as it is possible all other documents affecting the rights and equities of the tribe as a whole, or the individual members thereof, shall be kept and preserved in order that such information shall at all times be available to the council and to the individual members of the tribe; and duplications of all such documents shall be deposited in the files of one agency.

Document 34

#### Example 7

### ARTICLE III - MEETINGS OF THE COUNCIL

SECTION 1. First Meeting. At the first meeting of the Council after a regular election, the Council shall see that all members have a correct and clear understanding of the Constitution and By-laws and the management of the tribal and reservation affairs, as well as the rules for the conduct of their own body.

SEC. 2. Regular Meeting. The Council shall meet officially on regular meeting dates which shall be on the first Tuesday in each month at nine o'clock a.m. In case the time of the regular Council meeting on the first Tuesday of each month should conflict with a national, state or tribal election, or shall fall on a holiday, the meeting shall be held on the following Wednesday.

SEC. 3. Special Meetings. Special meetings of the Council may be called by the Chairman, or the Chairman shall call a special meeting upon written request of three or more members of the Council.

SEC. 4. Conduct of Business. In the conduct of business, recognized rules of order shall apply. Voting at the Council meeting may be by voice, but at the discretion of the Chairman or upon the request of any two members of the Council a secret vote shall be taken.

SEC. 5. Quorum. Matters of business for the Council shall be decided by a majority vote. A quorum (a number competent to transact business) of the Council shall be constituted if six or more members are present.

SEC. 6. Restriction of Voting in the Council. If any matter coming before the Council which involves the Indian Bureau or any person or company, no member of the Council that may be permanently connected with the party so involved shall be permitted to vote without the special consent of the remaining members of the Council.

Document 39

Example 8

Section 2.11. Procedure.

(a) Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of four or more members and, whenever practicable, upon no less than twelve hours' notice to each member. All meetings shall be public; however, the council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the council until the matter is placed on the agenda.

(b) Rules and Journal. The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in section 2.06, shall be valid or binding unless adopted by the affirmative vote of four or more members of the council.

IV. SECTION 2 - ACTION BY THE TRIBAL COUNCIL:  
ORDINANCES, RESOLUTIONS, AND MOTIONS

A. Considerations.

The purpose of this section is to assure tribal members that they will have the fullest opportunity to participate in important decisions of the tribal council in the exercise of the powers entrusted to it. The council will have the power to enact laws which will essentially be limitations upon the behavior of the tribal members. In addition, the council will have the power to make decisions and take action which will be binding upon the Tribe insofar as relations with other governments or private parties is concerned. Thus, this section is intended to set forth certain basic safeguards with which the tribal council must comply before any decision it makes or any action it takes is binding as legal action of the tribe. These safeguards will assure tribal members that they will have full notice and full opportunity to influence and participate in the decision making process of the tribal council.

Usually, such safeguards are only applicable to the more important decisions or actions of the tribal council. Thus, the safeguards are usually not made applicable to the less important decisions which are made by tribal councils, for example, the adjournment of meetings, or the kind of stationery the council should have, or the insignia that will be on the stationery, or whether the Chairman should go to a particular meeting. Generally, actions or decisions of the council which are of a temporary nature or which do not have a substantial impact on the tribal members could be taken by action not subject to the safeguards of this article.

Usually, this section first states that the council may act only by ordinance (or legislation), resolution, or motion. Action by ordinance or legislation would be required for all matters of an important or permanent nature. All other actions, unless specifically provided otherwise in the Constitution, may be in the form of a resolutions or motions. The procedure regarding resolutions and motions could be left to the judgment of the council to be incorporated in its internal rules of procedure.

B. Questions.

1. Should there be a provision which sets forth the manner in which the council may act, and safeguards which must be complied with regarding such actions? Should these kinds of actions be ordinances, resolutions, and motions?

2. Should the Constitution list certain kinds of matters which must be acted upon by ordinance, as opposed to resolution and motion, for example, levying a tax, creating a debt appropriating tribal money, establishing criminal or civil penalties, selling, mortgaging, leasing, or otherwise encumbering tribal lands?

3. Should a specific form in which ordinances must appear be set forth? This is a safeguard in that an ordinance should thus be immediately recognizable as an important action of the tribal council which should be carefully considered.

4. What should the procedure be for action by ordinance?

- a. Should an ordinance be allowed to be introduced at either a regular or a special meeting of the council? The accepted practice is to allow introduction of ordinances at both regular and special meetings.
- b. Who should be able to introduce an ordinance - anyone member of the council? Any two members?
- c. Should the ordinance be read at the meeting at which it is introduced in full, or should copies of the ordinance be made available not only to the council. A requirement that proposed ordinances be read about may be impractical if the ordinance is lengthy, but you might consider requiring that the ordinance be summarized aloud before adoption. You might also consider requiring the summary of the ordinance be translated aloud into Menominee before adoption.
- d. What should happen after the ordinance is introduced? Should the council be allowed to approve it at the same meeting at which it is introduced? Should the ordinance be required to be posted and/or published in full or by title? Should the ordinance receive some sort of approval by the council prior to being posted or published?
- e. Should a public hearing be required to be held on the ordinance? If so, how soon should such a hearing be set up? Should some sort of notice requirement be set forth for the hearing, that is, should the date and topic be posted and/or published?
- f. How should the ordinance be publicized as finally adopted? Should it be posted as well as published in full, or by title?

- g. Shall ordinances take effect on the date adopted unless otherwise specified in the ordinance? Or shall the constitution provide that ordinances shall take effect after the expiration of certain number of days? How many days? This is generally anywhere from 5 to 60 days after adoption.
- h. Should the council be allowed to amend the ordinance at a meeting subsequent to the public hearing?

5. Should a special voting requirement be included requiring a vote of a majority of all elected members, as opposed to a majority of the quorum. Or should a higher vote be required such as 3/4 of the elected members?

6. Should there be a provision for emergency ordinances? Such ordinances may be necessary for the immediate preservation of tribal property, health, peace, or safety. The ordinances would take effect immediately upon adoption by council. Should there be a special voting provision for emergency ordinances such as perhaps a unanimous vote requirement? Should the council be required to state the facts showing such emergency? Should there be certain kinds of actions which are absolutely prohibited from being the subject of emergency ordinances, such as levying taxes? Should the emergency ordinance be effective only for a limited number of days at which time it shall automatically expire unless re-enacted if the emergency still exists? Should there be requirements for publication of the ordinance? (Generally, emergency ordinances are exempted from most of the publication and notice requirements applicable to the passage of ordinary ordinances except as specifically made applicable.)

7. Should the council be required to keep an accurate public record of all ordinances passed?

8. Should there be a special provision which would allow the adoption by reference of entire codes, thus exempting the codes from any publication requirements? For example, the tribe may want to adopt a technical code relating to building requirements. Such codes are now in existence, have been written by technical experts, and are normally quite lengthy. An "adoption by reference" provision in the constitution would permit the council to adopt the technical code by reference without having to publish the entire code.

9. Should the ordinances, enacted by the tribal council, be subject to review by the Secretary of the Interior? Many tribal constitutions have this requirement, although it need not be included in the constitution.

C. Examples.

ACTION BY THE TRIBAL COUNCIL

Example 1

ARTICLE 7 -- LEGISLATION

Section 7.1 - Prior City Legislation:

All valid laws, ordinances, including existing emergency ordinances, and resolutions of the City which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective valid law, ordinance or resolution which are inconsistent with this Charter shall be repealed.

Section 7.2 - Ordinances, Resolutions and Motions:

The Council shall act only by ordinance, resolution or motion. All legislative enactments of a permanent nature shall be by ordinance; all other actions, except as provided in this Charter, may be in the form of resolutions or motions. All ordinances and resolutions shall be confined to one subject, except in case of repealing ordinances. Ordinances making appropriations shall be confined to the subject of appropriation, but may include more than one appropriation.

Section 7.3 - Action by Ordinance Required:

In addition to such acts of the Council as are required by other provisions of this Charter to be by ordinance, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property without the consent of the owner, shall be by ordinance.

Section 7.4 - Voting:

The vote by "yes" or "no" shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the minutes of the Council proceedings. Except as provided in Section 7.7, every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage. Resolutions and motions shall require the affirmative vote of a majority of the members present. No member of the Council shall vote on any question in which he has a conflict of interest, other than the common public interest, or on any question concerning his conduct, but on all other questions each member who is present shall vote when his name is called unless



excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this Charter, shall be considered delinquent in his duties and an affirmative vote shall be cast and recorded in his name.

#### Section 7.5 - Form of Ordinances:

Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not.

#### Section 7.6 - Procedure:

Except for emergency ordinances and ordinances making general codification of existing ordinances, the following procedure for enactment of ordinances shall be followed:

(a) The ordinance shall be introduced at any regular or special meeting of the Council by any member thereof.

(b) The ordinance shall be read in full or, in cases where copies of the ordinance are available to the Council and are, or have been made available to the public, said ordinance may be read by title only.

(c) After the first reading of the ordinance, the same shall be approved with or without amendment, rejected, or tabled by vote of the Council.

(d) If the ordinance is approved on first reading, it shall be posted and published in full or by title, unless otherwise provided in this Charter. The Council shall hold a public hearing on the ordinance not earlier than four (4) days after first publication, and notice of said public hearing, specifying the day, hour, and place of the same, shall be included in the posting and first publication.

(e) If the ordinance is tabled, it shall be reconsidered at subsequent meetings until it is approved with or without amendment, or rejected, by vote of the Council.

(f) The ordinance shall be introduced and read, in the manner provided in Section 7.6(b), a second time at the public hearing for final approval, rejection, or other actions as may be taken by vote of the Council.

(g) Except as otherwise provided in this Charter, an ordinance shall be posted and published, in full or by title, after final passage, and if amended subsequent to its last posting and publication, shall state that the same has been amended and shall contain a summary of the subject matter of said amendment.

(h) All ordinances shall take effect five (5) days after publication following final passage, except as otherwise provided in this Charter.

#### Section 7.7 - Emergency Ordinances:

Emergency ordinances for the preservation of public health, welfare, peace, safety, or property shall be approved

by a majority vote of the Councilmen present at any meeting at which the said emergency ordinance is introduced. The facts showing such urgency and need shall be specifically stated in the ordinance itself. No ordinance making a grant of any special privilege or fixing rates charged by any City-owned utility shall ever be passed as an emergency ordinance. No ordinance authorizing borrowing money or incurring indebtedness, except as provided in Section 9.10(b), shall ever be passed as an emergency ordinance. An emergency ordinance shall take effect upon passage and for information purposes shall be posted or published in full immediately after passage. An emergency ordinance shall not be in effect longer than ninety (90) days after passage, and shall not again be passed as an emergency ordinance.

#### Section 7.8 - Codification:

The Council shall cause the ordinances to be codified and thereafter maintained in current form. Each Council shall review the ordinances and examine them for current need. The Council may, by ordinance, prescribe the procedures for the enactment and any requirements for public notice of ordinances making general codification of existing ordinances.

#### Section 7.9 - Codes:

Standard codes, promulgated by the Federal Government, the State of Colorado or by any agency of either of them, or by any municipality within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted with or without amendment by reference thereto in an enacting ordinance and without reading and publishing or posting such codes in full. Such primary code, thus adopted, may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. However, the title of every primary code and every secondary code which is incorporated in any such adopting ordinance, shall be specified in the title of the adopting ordinance. The enactment of ordinances adopting any said code or codes shall be as provided in Section 7.6 herein, and the posting and publication thereof shall advise that copies and amendments are available for inspection at the office of the City Clerk. Any penalty clause in said codes may be adopted only if set forth in full in the adopting ordinance, and the same shall be posted and published along with the adopting ordinance or the title thereof.

#### Section 7.10 - Amendment or Repeal:

No ordinance, section or subsection thereof shall be amended, superseded, or repealed except by an ordinance regularly adopted. No ordinance shall be amended by reference to its title only. The revised sections or subsections of the ordinances, as amended, shall be re-enacted. However, an ordinance, section or subsection thereof may be repealed by reference to its title and ordinance or code number only.

Section 7.11 - Posting and Publication by Reference  
or Title:

Whenever an ordinance shall be posted or published by reference or by title, the posting and publication shall contain a summary of the subject matter of said ordinance and shall contain a notice to the public that copies of the proposed ordinance are available at the office of the City Clerk. The posting and publication of any ordinance by reference or by title as provided herein must set forth in full any penalty clause contained in said ordinance.

Section 7.12 - Disposition of Ordinances:

An ordinance as adopted shall be authenticated by the signature of the Council President and the City Clerk. A true copy of every such authenticated ordinance shall be numbered and recorded in the official records of the City. Attached to each ordinance and made a part thereof, shall be the certificate of publication or certification by the City Clerk that the same has been posted.

Document 22

Example 2

5.7 Action by Ordinance Required. In addition to such acts of the Council as required by other provisions of this Charter to be by ordinance, every act making an appropriation creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.

5.8 Form of Ordinance. Every ordinance shall be introduced in written or printed form. The enacting clause of all ordinances shall be BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO. Except as otherwise provided in this article, all ordinances shall take effect five days after publication following final passage.

Procedure. Except for an emergency ordinance, an ordinance making general codification of ordinances, or ordinances adopting standard codes, the following procedure shall be followed:

(a) Introduction at any regular or special meeting by any member of the Council.

(b) Reading in full or by titled where copies are available to the Council and those in attendance.

(c) Approval or rejection on first reading by a roll call vote of the Council.

(d) If passed on first reading, it shall be published in full unless otherwise provided in this Charter. Council shall set a day, hour, and place at which Council shall hold a public hearing thereon, which shall be included in the publication.

(e) Introduction a second time, at a meeting not earlier than seven days after publication, for the final passage, rejection, or other action by a roll call vote of the Council. Such meeting may be the same meeting at which the public hearing on the bill is held.

(f) An ordinance may be amended before final passage by a roll call vote of the Council.

(g) Unless otherwise provided in this Charter, an ordinance, if amended, shall be published in full after final passage. If not amended, it shall be published either by title or in full as the Council may determine.

(h) The Council shall hold a public hearing before final passage of any ordinance, except as provided in Section 5.9.

(i) Any publication by reference shall contain a summary of the subject matter of the ordinance and a notice that copies of the ordinance are available at the office of the City Clerk.

5.9 Emergency Ordinances. Emergency ordinances for the preservation of public property, health, peace, or safety shall be approved only by the unanimous vote of Councilmen present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any city-owned utility shall ever be passed as an emergency measure. Neither a public hearing, nor a first publication as provided in Section 5.8(d), shall be required. An emergency ordinance shall take effect upon passage. Publication shall be within 10 days, or as soon thereafter as possible. No ordinance shall receive final passage at the same meeting it is introduced.

5.10 Codification. The Council shall cause the ordinances to be codified and maintained thereafter in current form. Revisions to the codes may be accomplished by reference as provided in Section 5.11.

5.11 Codes. Standard codes, promulgated by the Federal Government, the State of Colorado, or by an agency of either of them, or by any municipality within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof, may be adopted by reference; provided the publication of the bill or ordinance adopting any said code shall advise that copies thereof are available for inspection at the office of the City Clerk, and provided that any penalty clause in said codes

may be adopted only if set forth in full and published in the adopting ordinance.

- 5.12 Disposition of Ordinances. A true copy of every ordinance, as adopted by Council shall be numbered and recorded in the official records of the City. Its adoption and publication shall be authenticated by the signature of the Mayor, or Mayor Pro-tem, and the City Clerk, and by the certificate of publication. A true copy of every ordinance, as adopted by the vote of the qualified electors of the City, shall be separately numbered and recorded commencing with Peoples' Ordinance No. 1.

Document 23.

Example 3

CHAPTER VIII  
LEGISLATION

- 8.1 PRIOR CITY LEGISLATION. All valid by-laws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect at the time of the effective date of this Charter shall continue in full force and effect until repealed or amended. If any such ordinance, resolution, rule or regulation provides for the appointment of any officers or any members of any board or commission by the Mayor, such officers or members of any board or commission shall, after the effective date of this Charter, be appointed by the Council, except as provided in this Charter. Those provisions of any effective valid by-law, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.
- 8.2 ORDINANCES AND RESOLUTIONS, AND MOTIONS. In all legislative matters coming before it, the Council shall act by ordinance, resolution or motion. In addition to such acts of the Council as are required by this Charter to be by ordinance, every act making an appropriation, authorizing the borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a fine or jail penalty is imposed, or placing any burden upon or limiting the use of private property, shall be by ordinance.
- 8.3 FORM OF ORDINANCES. All ordinances shall be introduced in written form and no ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of

Thornton, Colorado."

8.4 PROCEDURE FOR PASSAGE OF ORDINANCES.

(a) An ordinance may be introduced at any regular or special meeting and shall be read in full at the time it is introduced. It may be passed on first reading by the affirmative vote of not less than a majority of the members elected to the Council at the meeting at which it is introduced.

(b) After the passage of an ordinance on first reading, the ordinance shall be posted and the title published as required in this Charter.

(c) No ordinance may be passed on second and final reading earlier than ten days after the first reading, provided this provision shall not apply to emergency ordinances.

(d) An ordinance may be read by title only for its second reading at any regular or special meeting. It may be passed on second and final reading by the affirmative vote of not less than a majority of the members elected to the Council. An ordinance may be amended after first reading and passage and before second reading and final passage, provided said amendment or amendments do not change the stated purpose or the ordinance. The text of any such amendment or amendments shall be read in full.

(e) The effective date of all ordinances shall be on the date of final passage unless another date is prescribed therein.

(f) The yes and no votes shall be taken upon the passage of all ordinances, resolutions, and motions and entered upon the journal of the Council proceedings. Should any Councilman being present refuse to vote on any measure, his vote shall be recorded in the affirmative. A Councilman shall be excused from voting on matters involving the consideration of his own official conduct, or where his financial interests are involved.

(g) After the final passage of an ordinance, the ordinance shall be posted and the title published as required in this Charter.

8.5 PASSAGE OF EMERGENCY ORDINANCES. An ordinance which is declared therein to be an emergency ordinance which is immediately necessary for the preservation of the public peace, health, or safety may be enacted at the regular or special meeting at which it is introduced by seven affirmative votes without any requirement of prior posting or publication and without any requirement of a second reading and passage. Such emergency ordinances, after passage, shall be posted and the title published as required by this Charter.

8.6 POSTING AND PUBLICATION. The full text of each ordinance after passage on first reading and before second reading and final passage, and after second reading and final passage, shall be posted in the six public places in the City as such places are designated by resolution of the

Council. The title of each ordinance and a statement that the ordinance is on file in the City Clerk's office for public inspection shall be published in a newspaper legally qualified for City publications as provided in this Charter after first passage and before second passage and again after second and final passage.

- 8.7 AMENDMENT OR REPEAL. No ordinance, section or sub-section thereof shall be amended, superceded, or repealed except by an ordinance regularly adopted.

No ordinance shall be amended by reference to its title only, but the revised sections or sub-section of the ordinance, as amended, shall be re-enacted. However, an ordinance, section or sub-section thereof may be repealed by reference to its title and ordinance or code number only.

- 8.8 RECORDING OF ORDINANCES. All ordinances shall be recorded by the Clerk in a book called "The Ordinance Book" and it shall be the duty of the Mayor and Clerk to authenticate such records by their official signatures thereon, but the failure to so record and authenticate such ordinance shall not invalidate it or suspend its operation.

- 8.9 PENALTIES FOR VIOLATION OF ORDINANCES. Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall not exceed a fine of three hundred dollars or imprisonment for ninety days, or both, in the discretion of the Municipal Court.

- 8.10 ADOPTION BY REFERENCE.

(a) The City is hereby authorized to enact any ordinance which adopts any code by reference, in whole or in part; and such primary code, thus adopted, may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. However, the title of every primary code and every secondary code which is incorporated in any such adopting ordinance, shall be specified in the title of the ordinance.

(b) After the first reading of the adopting ordinance, the Council shall schedule a public hearing concerning the adopting ordinance and of the code and any secondary codes to be adopted thereby. Notice of the hearing shall be published twice in a newspaper meeting the requirements for publication of ordinances, once at least eight days preceding the hearing, and once at least fifteen days preceding it. The notice shall state the time and place of the hearing, that copies of the adopting ordinance, of the primary code, and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk and are open to public inspection.

The notice shall also contain a description which the Council deems sufficient to give notice to interested persons of the purpose of the code and of any secondary code incorporated thereby by reference, the subject matter of each such code, the name and address of the agency by which each has been promulgated, or if a municipality, the corporate name of such municipality which has enacted such code, and the date of publication of such code or codes, and in the case of a code of any municipality, the notice shall contain a specific reference to the code or codes of a given municipality as they existed and were effective at a given date.

(c) After the hearing, the Council may amend, adopt or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances; provided, nothing in this Charter shall be deemed to permit the adoption by reference of any penalty clause which may appear in any code which is adopted by reference. Any such penalty clause may be enacted only if set forth in full in the adopting ordinance. It is further provided that all changes or additions to any code made by the Council shall be set out in full in the adopting ordinance.

(d) The adopting ordinance shall be posted and the title of the ordinance shall be published as is provided in the case of any other ordinance. Not less than three copies of the adopting ordinance together with three copies of each primary code, and of each secondary code pertaining thereto, all certified to be true copies by the Mayor and the City Clerk, shall be on file in the office of the City Clerk prior to the enacting of the adopting ordinance on first reading and shall remain on file prior to the public hearing and following adoption after the public hearing. Following the adoption of any code, the City Clerk shall at all times maintain a reasonable supply of copies of the primary code and of any secondary code incorporated in it by reference, available to the public at a moderate price. The Council shall not be required to read the code test at the meetings at which the adopting ordinance is passed on first and second readings, provided said codes and primary codes, if any, are on file in the office of the City Clerk, as herein provided.

(e) If, at any time, any code which the City has previously adopted by reference, shall be amended by the agency or municipality which originally promulgated, adopted, or enacted it, then the Council may adopt such amendment by reference through the same procedure as required for the adoption of the original code; or an ordinance may be enacted in regular manner setting forth the entire text of such amendment.

(f) Copies of such codes in published form, duly certified by the City Clerk and the Mayor of the City, shall



be received without further proof as prima facie evidence of the provisions of such codes or public records in all courts and administrative tribunals of this State.

- 8.11 DEFINITIONS. As used in the text of this Charter, the following terms shall have the meanings indicated, unless the context requires otherwise:

(a) "Code" shall mean any published compilation of statutes, ordinances, rules, regulations, or standards adopted by the Federal government or the State of Colorado, or by an agency of either of them, or by any municipality within the State of Colorado, or by an agency of either of them, or by any state or nationally recognized organization, institution or agency, such as but not limited to the Pacific Coast Building Officials Conference and the National Fire Protection Association. It shall include any condification or compilation of existing ordinances of the adopting municipality.

(b) "Primary Code" shall mean any code which is directly adopted by reference in whole or in part by any ordinance passed pursuant to this Charter.

(c) "Secondary Code" shall mean any code which is incorporated by reference, directly or indirectly, in whole or in part, in any primary code or in any secondary code.

- 8.12 SEVERABILITY OF ORDINANCES. If any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a Court such invalidity shall not affect the remaining portions or applications of the ordinance which can be given effect without the invalid portion or application provided such remaining portions or applications are not determined by the Court to be inoperable, and to this end ordinances are declared to be severable. Each ordinance shall be deemed to have include as a part of it this severability provision even though this severability provision is not set out in the ordinance, unless an ordinance shall expressly provide that this severability provision is not applicable.

- 8.13 CODIFICATION OF ORDINANCES. The Council may direct and complete the codification of all ordinances of the City and shall provide for the subsequent amendments thereto so that such amendments may readily be made a part of such published code and maintained thereafter in current form. Any such codification may originally include provisions not previously contained in ordinances of the City.

The Council shall provide for making copies of the codification available for public inspection and for distribution to the public at a reasonable charge therefor and shall publish notice of the printing and availability of such codification before the effective date thereof. Such printing

and making available of the codification and notice thereof shall constitute publication of any such codification, other provisions of this Charter for publication notwithstanding.

The copies of the ordinances and of the codification thereof, and of provisions adopted by reference in accordance with Section 8.10 may be certified by the Clerk, and when so certified, shall be competent evidence in all Courts and other legally established tribunals as to the matter contained therein.

Document 24

Example 4

ARTICLE VII - ORDINANCES AND RESOLUTIONS

SECTION 1. All final decisions of the Washoe Tribal Council on matters of general and permanent interest to the members of the tribe shall be embodied in ordinances.

SEC. 2. All final decisions of the Washoe Tribal Council on matters of temporary interest or relating especially to particular individuals or officials, shall be embodied in resolutions. All Washoe Tribal Council legislation, minutes of Washoe Tribal Council meetings, and tribal financial records shall be open to inspection by any member of the Washoe Tribe, at such times as found convenient to the council.

SEC. 3. All questions of procedure (such as acceptance of committee reports or invitations to outsiders to speak) shall be decided by action the Washoe Tribal Council or by the ruling of the Chairman if no objection is heard. In all ordinances, resolutions, or motions, the Washoe Tribal Council may act by majority vote, but all matters of importance shall be fully discussed and a reasonable attempt shall be made to secure unanimous agreement.

SEC. 4. Every resolution shall begin with the words: "Be it resolved by the Washoe Tribal Council."

SEC. 5. Every ordinance or resolution shall contain the authority (statute, tribal constitution, etc.) for the Washoe Tribal Council's legislative action.

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Example 5

ARTICLE IV - ORDINANCES AND RESOLUTIONS

SECTION 1. All ordinances and resolutions shall be recorded and available at all times for the information and education of the band.

SECTION 2. Every ordinance shall begin with the words: "Be it enacted by the community council of the Tuolumne Band of Me-wuk Indians,".

SECTION 3. Every resolution shall begin with the words: "Be it resolved by the community council of the Tuolumne Band of Me-wuk Indians,".

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Example 6

Section 2.12. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

(1) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article V with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Convey or lease or authorize the conveyance or lease of any lands of the city;

(8) Adopt with or without amendment ordinances proposed under the initiative power; and

(9) Amend or repeal any ordinance previously adopted,